

HOUSE APPROPRIATIONS AND FINANCE COMMITTEE SUBSTITUTE FOR
HOUSE BILL 774 AND SENATE BILL 797

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

AN ACT

RELATING TO PUBLIC EMPLOYEE RETIREMENT; CREATING A NEW
RETIREMENT PLAN FOR MUNICIPAL DETENTION OFFICERS; REVISING THE
STATE POLICE MEMBER COVERAGE PLAN 1 TO INCLUDE ADULT
CORRECTIONAL OFFICERS; PROVIDING FOR ELECTIONS; AMENDING AND
ENACTING CERTAIN SECTIONS OF THE PUBLIC EMPLOYEES RETIREMENT
ACT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 10-11-2 NMSA 1978 (being Laws 1987,
Chapter 253, Section 2, as amended) is amended to read:

"10-11-2. DEFINITIONS. --As used in the Public Employees
Retirement Act:

A. "accumulated member contributions" means the
amounts deducted from the salary of a member and credited to
the member's individual account, together with interest, if

1 any, credited to that account;

2 B. "affiliated public employer" means the state and
3 any public employer affiliated with the association as provided
4 in the Public Employees Retirement Act, but does not include an
5 employer pursuant to the Magistrate Retirement Act, the
6 Judicial Retirement Act or the Educational Retirement Act;

7 C. "association" means the public employees
8 retirement association established under the Public Employees
9 Retirement Act;

10 D. "disability retired member" means a retired
11 member who is receiving a pension pursuant to the disability
12 retirement provisions of the Public Employees Retirement Act;

13 E. "disability retirement pension" means the
14 pension paid pursuant to the disability retirement provisions
15 of the Public Employees Retirement Act;

16 F. "educational retirement system" means that
17 retirement system provided for in the Educational Retirement
18 Act;

19 G. "employee" means any employee of an affiliated
20 public employer;

21 H. "federal social security program" means that
22 program or those programs created and administered pursuant to
23 the act of congress approved August 14, 1935, Chapter 531, 49
24 Stat. 620, as that act may be amended;

25 I. "final average salary" means the final average

1 salary calculated in accordance with the provisions of the
2 applicable coverage plan;

3 J. "form of payment" means the applicable form of
4 payment of a pension provided for in Section 10-11-117 NMSA
5 1978;

6 K. "former member" means a person who was
7 previously employed by an affiliated public employer, who has
8 terminated that employment and who has received a refund of
9 member contributions;

10 L. "fund" means the funds included under the Public
11 Employees Retirement Act;

12 M "member" means a currently employed,
13 contributing employee of an affiliated public employer, or a
14 person who has been but is not currently employed by an
15 affiliated public employer, who has not retired and who has not
16 received a refund of member contributions; "member" also
17 includes the following:

18 (1) "adult correctional officer member" means
19 a member who is an adult correctional officer or an adult
20 correctional officer specialist employed by a correctional
21 facility of the corrections department or its successor agency;

22 ~~[(1)]~~ (2) "hazardous duty member" means [a
23 ~~state policeman who is~~] a member [and] who is a juvenile [or
24 ~~adult~~] correctional officer employed by [~~a corrections facility~~
25 ~~of the corrections department or its successor agency~~] the

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1 children, youth and families department or its successor
2 agency;

3 (3) "municipal detention officer member" means
4 a member who is employed by an affiliated public employer other
5 than the state and who has inmate custodial responsibilities at
6 a facility used for the confinement of persons charged with or
7 convicted of a violation of a law or ordinance;

8 [~~(2)~~] (4) "municipal fire member" means any
9 member who is employed as a full-time nonvolunteer firefighter
10 by an affiliated public employer and who has taken the oath
11 prescribed for firefighters;

12 [~~(3)~~] (5) "municipal police member" means any
13 member who is employed as a police officer by an affiliated
14 public employer, other than the state, and who has taken the
15 oath prescribed for police officers; and

16 [~~(4)~~] (6) "state police member" means any
17 member who is an officer of the New Mexico state police and who
18 has taken the oath prescribed for such officers;

19 N. "membership" means membership in the
20 association;

21 O. "pension" means a series of monthly payments to
22 a retired member or survivor beneficiary as provided in the
23 Public Employees Retirement Act;

24 P. "public employer" means the state, any
25 municipality, city, county, metropolitan arroyo flood control

1 authority, economic development district, regional housing
2 authority, soil and water conservation district, entity created
3 pursuant to a joint powers agreement, council of government,
4 conservancy district, water and sanitation district, water
5 district and metropolitan water board, including the boards,
6 departments, bureaus and agencies of a public employer, so long
7 as these entities fall within the meaning of governmental plan
8 as that term is used in Section 414(d) of the Internal Revenue
9 Code of 1986, as amended;

10 Q. "refund beneficiary" means a person designated
11 by the member, in writing, in the form prescribed by the
12 association, as the person who would be refunded the member's
13 accumulated member contributions payable if the member dies and
14 no survivor pension is payable or who would receive the
15 difference between pension paid and accumulated member
16 contributions if the retired member dies before receiving in
17 pension payments the amount of the accumulated member
18 contributions;

19 R. "retire" means to:
20 (1) terminate employment with all employers
21 covered by any state system or the educational retirement
22 system; and
23 (2) receive a pension from a state system or
24 the educational retirement system;

25 S. "retired member" means a person who has met all

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1 requirements for retirement and who is receiving a pension from
2 the fund;

3 T. "retirement board" means the retirement board
4 provided for in the Public Employees Retirement Act;

5 U. "salary" means the base salary or wages paid a
6 member, including longevity pay, for personal services rendered
7 an affiliated public employer. "Salary" shall not include
8 overtime pay, allowances for housing, clothing, equipment or
9 travel, payments for unused sick leave, unless the unused sick
10 leave payment is made through continuation of the member on the
11 regular payroll for the period represented by that payment, and
12 any other form of remuneration not specifically designated by
13 law as included in salary for Public Employees Retirement Act
14 purposes. Salary in excess of the limitations set forth in
15 Section 401(a) (17) of the Internal Revenue Code of 1986, as
16 amended shall be disregarded. The limitation on compensation
17 for eligible employees shall not be less than the amount that
18 was allowed to be taken into account under the state retirement
19 system acts in effect on July 1, 1993. For purposes of this
20 ~~[section]~~ subsection, "eligible employee" means an individual
21 who was a member of a state system before the first plan year
22 beginning after December 31, 1995;

23 V. "state system" means the retirement programs
24 provided for in the Public Employees Retirement Act, the
25 Magistrate Retirement Act and the Judicial Retirement Act;

1 W. "state retirement system acts" means
2 collectively the Public Employees Retirement Act, the
3 Magistrate Retirement Act, the Judicial Retirement Act and the
4 Volunteer Firefighters Retirement Act; and

5 X. "survivor beneficiary" means a person who
6 receives a pension or who has been designated to be paid a
7 pension as a result of the death of a member or retired
8 member. "

9 Section 2. A new section of the Public Employees
10 Retirement Act is enacted to read:

11 "NEW MATERIAL MUNICIPAL DETENTION OFFICER MEMBER
12 COVERAGE PLAN 1--APPLICABILITY.--Municipal detention officer
13 member coverage plan 1 is applicable to municipal detention
14 officer members on the first day of the calendar month
15 following certification of the election adopting municipal
16 detention officer member coverage plan 1 by an affirmative vote
17 of the majority of the affiliated public employer's municipal
18 detention officer members. The election shall be conducted by
19 the affiliated public employer. The certification shall be in
20 the form prescribed by the retirement board. The election
21 procedures shall afford all municipal detention officer members
22 of the affiliated public employer an opportunity to vote. An
23 election adopting municipal detention officer member coverage
24 plan 1 for a given affiliated public employer is irrevocable
25 for the purpose of subsequently adopting a coverage plan that

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1 would decrease employer or employee contributions with respect
2 to all current and future municipal detention officer members
3 of that affiliated public employer."

4 Section 3. A new section of the Public Employees
5 Retirement Act is enacted to read:

6 "[NEW MATERIAL] MUNICIPAL DETENTION OFFICER MEMBER
7 COVERAGE PLAN 1--AGE AND SERVICE REQUIREMENTS FOR NORMAL
8 RETIREMENT--CALCULATION OF CREDITED SERVICE.--

9 A. Under municipal detention officer member
10 coverage plan 1, the age and service requirements for normal
11 retirement are:

12 (1) age sixty-five years or older and five or
13 more years of credited service;

14 (2) age sixty-four years and eight or more
15 years of credited service;

16 (3) age sixty-three years and eleven or more
17 years of credited service;

18 (4) age sixty-two years and fourteen or more
19 years of credited service;

20 (5) age sixty-one years and seventeen or more
21 years of credited service;

22 (6) age sixty years and twenty or more years
23 of credited service; or

24 (7) any age and twenty-five or more years of
25 credited service.

1 B. In calculating credited service for the purposes
2 of determining retirement eligibility and amount of pension,
3 the credited service of a municipal detention officer member
4 shall have actual credited service increased by twenty percent
5 for the purposes of municipal detention officer member coverage
6 plan 1. "

7 Section 4. A new section of the Public Employees
8 Retirement Act is enacted to read:

9 "[NEW MATERIAL] MUNICIPAL DETENTION OFFICER MEMBER
10 COVERAGE PLAN 1-- AMOUNT OF PENSION-- FORM OF PAYMENT A. -- Under
11 municipal detention officer member coverage plan 1, the amount
12 of pension under form of payment A is equal to three percent of
13 the final average salary multiplied by credited service. The
14 amount shall not exceed eighty percent of the final average
15 salary. "

16 Section 5. A new section of the Public Employees
17 Retirement Act is enacted to read:

18 "[NEW MATERIAL] MUNICIPAL DETENTION OFFICER MEMBER
19 COVERAGE PLAN 1-- FINAL AVERAGE SALARY. -- Under municipal
20 detention officer member coverage plan 1, the final average
21 salary is one thirty-sixth of the greatest aggregate amount of
22 salary paid a member for thirty-six consecutive months of
23 credited service. "

24 Section 6. A new section of the Public Employees
25 Retirement Act is enacted to read:

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1 "[NEW MATERIAL] MUNICIPAL DETENTION OFFICER MEMBER
2 COVERAGE PLAN 1--MEMBER CONTRIBUTION RATE.--A member under
3 municipal detention officer member coverage plan 1 shall
4 contribute sixteen and sixty-five hundredths percent of salary
5 starting with the first full pay period that ends within the
6 calendar month in which municipal detention officer member
7 coverage plan 1 becomes applicable to the member."

8 Section 7. A new section of the Public Employees
9 Retirement Act is enacted to read:

10 "[NEW MATERIAL] MUNICIPAL DETENTION OFFICER MEMBER
11 COVERAGE PLAN 1--EMPLOYER CONTRIBUTION RATE.--The affiliated
12 public employer shall contribute sixteen and sixty-five
13 hundredths percent of the salary of each member under municipal
14 detention officer member coverage plan 1 starting with the
15 first pay period that ends within the calendar month in which
16 municipal detention officer member coverage plan 1 becomes
17 applicable to the member."

18 Section 8. A new section of the Public Employees
19 Retirement Act is enacted to read:

20 "[NEW MATERIAL] MUNICIPAL DETENTION OFFICER MEMBER
21 COVERAGE PLAN 1--SERVICE CREDIT REQUIRED FOR MUNICIPAL
22 DETENTION OFFICER MEMBERS.--Notwithstanding other provisions of
23 the Public Employees Retirement Act, to qualify for retirement
24 pursuant to municipal detention officer member coverage plan 1,
25 a municipal detention officer member shall have three years of

1 service credit earned under that coverage plan. "

2 Section 9. Section 10-11-27 NMSA 1978 (being Laws 1987,
3 Chapter 253, Section 27) is amended to read:

4 "10-11-27. STATE POLICE MEMBER AND ADULT CORRECTIONAL
5 OFFICER MEMBER COVERAGE PLAN 1--APPLICABILITY. --

6 A. State police member and adult correctional
7 officer member coverage plan 1 is applicable to state police
8 members who are not specifically covered by another coverage
9 plan and adult correctional officer members. The credited
10 service of a state police member who has held the permanent
11 rank of patrolman or sergeant and does not hold an exempt rank
12 or who is assigned to the aircraft division as a pilot, or of
13 an adult correctional officer member, shall have actual
14 credited service increased by twenty percent for the purposes
15 of state police member and adult correctional officer member
16 coverage plan 1.

17 B. State police member and adult correctional
18 officer member coverage plan 1 is applicable to adult
19 correctional officer members in the first full pay period after
20 July 1, 2004 if the retirement board certifies to the secretary
21 of state that, of those adult correctional officer members to
22 be covered under state police member and adult correctional
23 officer member coverage plan 1, a majority of the members
24 voting have voted to approve adoption of that plan at an
25 election conducted pursuant to Section 16 of this 2003 act."

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1 Section 10. A new section of the Public Employees
2 Retirement Act, Section 10-11-27.1 NMSA 1978, is enacted to
3 read:

4 "10-11-27.1. [NEW MATERIAL] STATE POLICE MEMBER AND ADULT
5 CORRECTIONAL OFFICER MEMBER COVERAGE PLAN 1--SERVICE CREDIT
6 REQUIRED. --Notwithstanding the provisions of Section 10-11-27
7 NMSA 1978, to qualify for payment under state police member and
8 adult correctional officer member coverage plan 1, an adult
9 correctional officer member shall have three years of service
10 credit earned under the state police member and adult
11 correctional officer member coverage plan 1 subsequent to July
12 1, 2004. "

13 Section 11. Section 10-11-28 NMSA 1978 (being Laws 1987,
14 Chapter 253, Section 28) is amended to read:

15 "10-11-28. STATE POLICE MEMBER AND ADULT CORRECTIONAL
16 OFFICER MEMBER COVERAGE PLAN 1--AGE AND SERVICE REQUIREMENTS
17 FOR NORMAL RETIREMENT. --Under state police member and adult
18 correctional officer member coverage plan 1, the age and
19 service requirements for normal retirement are:

20 A. age sixty-five years or older and five or more
21 years of credited service;

22 B. age sixty-four years and eight or more years of
23 credited service;

24 C. age sixty-three years and eleven or more years
25 of credited service;

1 D. age sixty-two years and fourteen or more years
2 of credited service;

3 E. age sixty-one years and seventeen or more years
4 of credited service;

5 F. age sixty years and twenty or more years of
6 credited service; or

7 G. any age and twenty-five or more years of
8 credited service. "

9 Section 12. Section 10-11-29 NMSA 1978 (being Laws 1987,
10 Chapter 253, Section 29) is amended to read:

11 "10-11-29. STATE POLICE MEMBER AND ADULT CORRECTIONAL
12 OFFICER MEMBER COVERAGE PLAN 1--AMOUNT OF PENSION--FORM OF
13 PAYMENT A.--Under state police member and adult correctional
14 officer member coverage plan 1, the amount of pension under
15 form of payment A is equal to three percent of final average
16 salary multiplied by credited service. The amount shall not
17 exceed eighty percent of the final average salary. "

18 Section 13. Section 10-11-30 NMSA 1978 (being Laws 1987,
19 Chapter 253, Section 30) is amended to read:

20 "10-11-30. STATE POLICE MEMBER AND ADULT CORRECTIONAL
21 OFFICER MEMBER COVERAGE PLAN 1--FINAL AVERAGE SALARY.--Under
22 state police member and adult correctional officer member
23 coverage plan 1, the final average salary is one thirty-sixth
24 of the greatest aggregate amount of salary paid a member for
25 thirty-six consecutive months of credited service. Under state

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1 police member and adult correctional officer member coverage
2 plan 1, if a state police member has less than thirty-six
3 months of credited service, the final average salary is the
4 aggregate amount of salary paid a member for the member's
5 period of credited service divided by the member's credited
6 service. "

7 Section 14. Section 10-11-31 NMSA 1978 (being Laws 1987,
8 Chapter 253, Section 31) is amended to read:

9 "10-11-31. STATE POLICE MEMBER AND ADULT CORRECTIONAL
10 OFFICER MEMBER COVERAGE PLAN 1--MEMBER CONTRIBUTION RATE. --A
11 member under state police member and adult correctional officer
12 member coverage plan 1 shall contribute seven and six-tenths
13 percent of salary. "

14 Section 15. Section 10-11-32 NMSA 1978 (being Laws 1987,
15 Chapter 253, Section 32) is amended to read:

16 "10-11-32. STATE POLICE MEMBER AND ADULT CORRECTIONAL
17 OFFICER MEMBER COVERAGE PLAN 1--STATE CONTRIBUTION RATE. --The
18 state shall contribute twenty-five and one-tenth percent of the
19 salary of each member under state police member and adult
20 correctional officer member coverage plan 1. "

21 Section 16. TEMPORARY PROVISION--STATE POLICE MEMBER AND
22 ADULT CORRECTIONAL OFFICER MEMBER COVERAGE PLAN 1--ELECTIONS. --
23 On or before October 1, 2003, the retirement board shall
24 conduct an election to submit to adult correctional officer
25 members currently contributing under hazardous duty coverage

1 plan 2 the question of adopting a state police member and adult
2 correctional officer member coverage plan 1. The election
3 shall be conducted in accordance with procedures adopted by the
4 retirement board, and the retirement board shall certify the
5 results of the election to the secretary of state on or before
6 November 1, 2003.

7 Section 17. EFFECTIVE DATE. --The effective date of the
8 provisions of this act is July 1, 2003.

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